

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**CHUBB EXECUTIVE RISK, INC. d/b/a
CHUBB SPECIALTY INSURANCE,
A SUBSIDIARY OF FEDERAL INSURANCE
COMPANY and KELLY SERVICES GLOBAL, LLC,
JOINT EMPLOYERS**

and

Case 01-CA-173077

THOMAS IERONIMO

ORDER

Petitioner Kelly Services Global, LLC's Petitions to Revoke subpoena duces tecum B-1- ST6SOL are denied as untimely. Section 11(1) of the Act and Sections 102.31(b) and 102.111 of the Board's Rules and Regulations require that a petition to revoke an investigative subpoena must be filed within 5 days after the date of service of the subpoena. The subpoena here was served on August 1, 2016. Thus, the petitions, which were filed on August 9 and 10, 2016, are untimely.

In addition, even assuming that the petitions were timely filed, they are lacking in merit.¹ The subpoena seeks information relevant to the matters under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Petitioner has failed to establish any other legal basis for revoking the subpoena.² See

¹ Member Miscimarra would deny the petitions to revoke solely on the ground that they were untimely filed.

² To the extent that the Petitioner has provided some of the requested material, it is not required to produce that information again, provided that the Petitioner accurately describes which documents under subpoena it has already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.

generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., October 28, 2016

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

To the extent that the Petitioner asserts that no responsive evidence exists for certain subpoena paragraphs, it is not required to produce subpoenaed evidence that it does not possess, but the Petitioner is required to conduct a reasonable and diligent search for all requested evidence, and as to requested evidence that the Petitioner determines it does not possess, the Petitioner must affirmatively represent to the Region that no responsive evidence exists.

In considering the petitions to revoke, we have evaluated the subpoena in light of the Region's statements that it is willing to clarify that: (1) the term "communication" in paragraph 6 refers only to communications regarding the contract(s) between Chubb Executive Risk, Inc. (Chubb) and Kelly Services Global, LLC (Kelly); (2) paragraphs 6, 9, and 10 seek only documents from January 2015 through the date of the subpoena; (3) paragraphs 9 and 10 are limited to Kelly employees assigned to the Chubb facility during that time period; and (4) paragraph 2 is limited to the time period of January 1, 2014, through the date of the subpoena.